

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MAR 03 2004

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

BENTON COUNTY PROSECUTING ATTORNEY
7122 West Okanogan Place, #G
Kennewick, WA 99336
(509) 735-3591

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

KEN AND MARY LOU ROGERS

Plaintiffs,

vs.

CITY OF KENNEWICK, a municipal corporation; BENTON COUNTY, WASHINGTON, a political subdivision in the State of Washington; Richard Dopke & Jane Doe Dopke, husband & wife, individually and as a marital community; John Doe Bonnalie & Jane Doe Bonnalie, husband & wife, individually, and as a marital community; R.B. Kohn & Jane Doe Kohn, husband & wife, individually, and as a marital community; Deputy John Doe Quackenbush & Jane Doe Quackenbush, husband & wife, individually, and as a marital community;

Defendants.

NO.

CV-04-5028-EFS

**NOTICE OF REMOVAL TO
FEDERAL COURT**

FRANKLIN COUNTY SUPERIOR
COURT NO. 04-2-50094-2

TO: The United States District Court for the Eastern District of Washington

TO: Plaintiffs Ken and Mary Lou Rogers
Attorney Larry W. Zeigler
2839 W. Clearwater Ave.
Suite 341
Kennewick, WA 99336-2927

City of Kennewick
John Ziobro

BENTON COUNTY PROSECUTING ATTORNEY

7122 West Okanogan Place, #G

Kennewick, Washington 99336

(509) 735-3591

NOTICE OF REMOVAL
TO FEDERAL COURT - 1

1 City Attorney
2 210 West Sixth Avenue
3 PO Box 6108
4 Kennewick, WA 99336-0108

5 Richard Dopke and Jane Doe Dopke
6 John Ziobro
7 City Attorney
8 210 West Sixth Avenue
9 PO Box 6108
10 Kennewick, WA 99336-0108

11 John Doe Bonnalie and Jane Doe Bonnalie
12 John Ziobro
13 City Attorney
14 210 West Sixth Avenue
15 PO Box 6108
16 Kennewick, WA 99336-0108

17 R.B. Kohn and Jane Doe Kohn
18 John Ziobro
19 City Attorney
20 210 West Sixth Avenue
21 Kennewick, WA 99336-0108

22 Defendants Benton County, Benton County Sheriff's Deputy Jeff
23 Quackenbush and Jane Doe Quackenbush respectfully give notice that
24 they are removing this case to the United States District Court for
25 the Eastern District of Washington on the grounds set forth below.

26 1. Defendants Benton County, Benton County Sheriff's Deputy
27 Jeff Quackenbush and Jane Doe Quackenbush are named defendants in
28 the above-entitled action.

2. On February 9, 2004, the above-entitled action was filed
against the defendants in the Superior Court of the State of
Washington for Franklin County, is now pending therein, and is
cause number 04-2-50094-2.

3. On February 13, 2004, defendant Benton County received a
copy of the summons and complaint in the above-entitled action, a
copy of which is attached as Exhibit A. This Notice is filed
within 30 days of defendant Benton County's receipt of the

BENTON COUNTY PROSECUTING ATTORNEY

7122 West Okanogan Place, #G

Kennewick, Washington 99336

(509) 735-3591

NOTICE OF REMOVAL
TO FEDERAL COURT - 2

1 complaint.

2 4. On February 16, 2004, defendants Jeff Quackenbush and
3 Jane Doe Quackenbush received a copy of the summons and complaint
4 in the above-entitled action. This Notice is filed within 30 days
5 of defendants, Jeff and Jane Doe Quackenbush's receipt of the
6 complaint.

7 5. Defendants Benton County, Benton County Sheriff's Office
8 Deputy Quackenbush and Jane Doe Quackenbush have no knowledge as to
9 whether the other defendants have been served as of the date of
10 this Notice.

11 6. On February 23, Andy Miller, Benton County Prosecuting
12 Attorney, and Rea L. Culwell, Senior Deputy Prosecuting Attorney,
13 filed a Notice of Appearance, a copy of which is attached hereto as
14 Exhibit B.

15 5. Exhibits A and B, constitute the complete record of all
16 proceedings in the state court as of the date of this Notice.

17 6. In their complaint, plaintiffs allege civil rights
18 violations arising under 42 U.S.C §§ 1983 and 1988. See, Exhibit
19 A.

20 7. Plaintiffs' claims arise under and are controlled by the
21 laws and the Constitution of the United States and therefore fall
22 within the original jurisdiction of the United States District
23 Court as conferred by 28 U.S.C. §§ 1331 and 1343. As such, this
24 action is a proper one for removal from the state court to the
25 United States District Court pursuant to 28 U.S.C. § 1441 (a).


26 8. This court is the District Court of the United States for
27 the district and division embracing the place where the state court
28

1 action is currently pending, and is therefore the appropriate court
2 for removal pursuant to 28 U.S.C. § 1441(a).

3 WHEREFORE, Defendants Benton County, Benton County Deputy
4 Sheriff Quackenbush and Jane Doe Quackenbush, give notice that the
5 civil action pending against them in Franklin County Superior Court
6 of the State of Washington has been removed from that court to the
7 United States District Court for the Eastern District of
8 Washington.

9 DATED this 3rd day of March, 2004.

10 ANDY MILLER
11 Prosecuting Attorney

12 By 
13 REA L. CULWELL, Deputy
14 Prosecuting Attorney
15 WSBA# 32080
16 Attorneys for Defendants
17 OFC ID 91004

18 **CERTIFICATE OF SERVICE**

19 I, Shannon C. Slaght, declare as follows:

20 That I am over the age of 18 years, not a party to this
21 action, and competent to be a witness herein. That I, as a legal
22 secretary in the office of the Benton County Prosecuting Attorney
23 deposited a true and correct copy of this document in an envelope,
24 and that I addressed said envelope as set forth herein and on the
25 3rd day of March, 2004 deposited said envelope(s) so addressed with
26 sufficient postage prepaid thereon, in the United States Mail at
27 Kennewick, Benton County, Washington to:

28 Plaintiffs Ken and Mary Lou Rogers
Attorney Larry W. Zeigler
2839 W. Clearwater Ave.

BENTON COUNTY PROSECUTING ATTORNEY

7122 West Okanogan Place, #G

Kennewick, Washington 99336

(509) 735-3591

Suite 341
Kennewick, WA 99336-2927

City of Kennewick
John Ziobro
City Attorney
210 West Sixth Avenue
PO Box 6108
Kennewick, WA 99336-0108

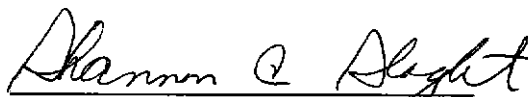
Richard Dopke and Jane Doe Dopke
John Ziobro
City Attorney 210 West Sixth Avenue
PO Box 6108
Kennewick, WA 99336-0108

John Doe Bonnalie and Jane Doe Bonnalie
John Ziobro
City Attorney
210 West Sixth Avenue
PO Box 6108
Kennewick, WA 99336-0108

R.B. Kohn and Jane Doe Kohn
John Ziobro
City Attorney
210 West Sixth Avenue
Kennewick, WA 99336-0108

I certify under penalty of perjury under the laws of the State
of Washington that the foregoing is true and correct.

EXECUTED at Kennewick, Washington, this 3rd day of March,
2004.


SHANNON C. SLAGHT

BENTON COUNTY PROSECUTING ATTORNEY

7122 West Okanogan Place, #G

Kennewick, Washington 99336

(509) 735-3591

NOTICE OF REMOVAL
TO FEDERAL COURT - 5

FEB 13 2004

BENTON COUNTY AUDITOR
PROSSER OFFICE

COPY

BENTON CO. PROS.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF FRANKLIN

RECEIVED

KENNETH & MARY LOU ROGERS, husband &)
wife, individually and as a marital community,)
Plaintiffs,)

vs.)

NO. 04-2-50094-2

SUMMONS

CITY OF KENNEWICK, a municipal corporation;)
BENTON COUNTY, WASHINGTON, a political sub-)
division in the State of Washington; Richard Dopke &)
Jane Doe Dopke, husband & wife, individually and as)
a marital community; John Doe Bonnalie & Jane Doe)
Bonnalie, husband & wife, individually, and as a mari-)
tal community; R.B. Kohn & Jane Doe Kohn, husband)
& wife, individually, and as a marital community;)
Deputy John Doe Quackenbush & Jane Doe Quacken-)
bush, husband & wife, individually, and as a marital)
community,)
Defendants.)

TO THE DEFENDANTS: A lawsuit has been started against you in the
above-entitled court by KENNETH & Mary Lou ROGERS, plaintiffs. Plaintiffs'
claim is stated in the written complaint, a copy of which is served upon you with this
summons.

In order to defend against this lawsuit, you must respond to the complaint by
stating your defense in writing, and by serving a copy upon the person signing this
summons within twenty (20) days after the service of this summons, excluding the
day of service, or a default judgment may be entered against you without notice. A
default judgment is one where Plaintiffs are entitled to what they ask for because
you have not responded. If you serve a notice of appearance on the undersigned
person, you are entitled to notice before a default judgment may be entered.

Larry Zeigler, WSBA 11595
2839 W. Kennewick Ave. #341
Kennewick, WA 99336
(509)734-1229/fax (509)734-1423

1 You may demand that the Plaintiff file this lawsuit with the court. If you do
2 so, the demand must be in writing and must be served upon the person signing this
3 summons. Within 14 days after you serve the demand, the plaintiffs must file this
4 lawsuit with the court, or the service on you of this summons and complaint will be
5 void.

6 If you wish to seek the advise of an attorney in this matter you should do so
7 promptly so that your written response, if any, may be served on time

8 This Summons is issued pursuant to rule 4 of the Superior Court Civil Rules
9 of the State of Washington.

10 DATED at Kennewick, Washington, this 9th day of February, 2004.

11
12
13 
14 _____
15 Larry W. Zeigler, WSBA 11595
16 Attorney for Plaintiff
17
18
19
20
21
22
23
24
25
26
27

Larry Zeigler, WSBA 11595
504 W. Margaret
Pasco, WA 99301
(509)545-9088

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
2 IN AND FOR THE COUNTY OF FRANKLIN

3 KENNETH & MARY LOU ROGERS, husband &)
4 wife, individually and as a marital community,)
5 Plaintiffs,)

6 vs.)

NO. 04-2-50094-2

COMPLAINT

7 CITY OF KENNEWICK, a municipal corporation;)
8 BENTON COUNTY, WASHINGTON, a political sub-)
9 division in the State of Washington; Richard Dopke &)
10 Jane Doe Dopke, husband & wife, individually and as)
11 a marital community; John Doe Bonnalie & Jane Doe)
12 Bonnalie, husband & wife, individually, and as a mari-)
13 tal community; R.B. Kohn & Jane Doe Kohn, husband)
14 & wife, individually, and as a marital community;)
15 Deputy John Doe Quackenbush & Jane Doe Quacken-)
16 bush, husband & wife, individually, and as a marital)
17 community,)
18 Defendants.)

19 COME NOW THE PLAINTIFFS,, by and through their counsel of
20 record, and by and for its First Cause of Action alleges as follows, to wit:

21 I.

22 Plaintiffs Ken and Mary Lou Rogers are residents of Clark County,
23 Washington, while to the best of the plaintiffs' information and belief, the individual
24 defendants are residents of Benton County, Washington, the defendant City of
25 Kennewick is a municipal corporation duly incorporated under the laws of the State
26 of Washington and the defendant Benton County is a political sub-division of the
27 State of Washington and the incident in question occurred in Benton County,
Washington.

1
2 II.

3 That on or about July 13, 2003, the plaintiff Kenneth Rogers was staying at
4 the home of his stepson and daughter-in-law in Kennewick, Washington.

5 III.

6 That on or about July 13, 2003, at approximately midnight, defendant Richard
7 Dopke, while on duty as a sergeant and commissioned police officer and supervisor
8 for the defendant City of Kennewick, pursued a mini-moped for the purpose of
9 investigating a civil traffic infraction. Upon executing a stop of said vehicle, the
10 unknown rider fled the scene.

11 IV.

12 That shortly thereafter, defendants Dopke, Bonnalie, Kohn and Quackenbush,
13 and others unidentified at this time, cordoned off an area and began a systematic
14 search using a K-9 German Shepherd belonging to the Kennewick Police
15 Department.

16 V.

17 That to the best of the plaintiff's information and belief, Officer Kohn, the
18 assigned dog handler, intentionally unleashed said K-9 and turned it loose to track.

19 VI.

20 That said K-9 then went onto the property where Kenneth Rogers was
21 sleeping, and without warning attacked Kenneth Rogers, inflicting serious bodily
22 injury.

23 VII.

24 That while said K-9 was in the process of attacking Kenneth Rogers, to the
25 best of plaintiff's information and belief, Officers Bonnalie, Kohn and Defendant

1 Quackenbush physically assaulted the plaintiff Rogers as he attempted to defend
2 himself from the dog's attack; that the combination of physical attacks by the afore-
3 mentioned officers and the attack by the dog resulted in serious physical injuries to
4 the plaintiff Kenneth Rogers.

5 VIII.

6 That the conduct complained of in paragraphs I through VII, constituted an
7 intentional assault by said defendants on plaintiff.

8
9 **By and for its Second Cause of Action**, plaintiffs re-allege each and every
10 allegation in paragraphs I through VIII, and further claim:

11 IX.

12 That plaintiff Kenneth Rogers was not booked into jail nor charged with an
13 offense, nor did defendants have probable cause to apprehend or charge said plaintiff
14 with any crime whatsoever; and that said conduct by defendants constituted an
15 outrage under the laws of the State of Washington.

16
17 **By and for its Third Cause of Action**, plaintiffs re-allege each and every
18 allegation in paragraphs I through X, and further claim:

19 X.

20 That said conduct intentionally and/or negligently inflicted severe emotional
21 distress on the plaintiffs.

22
23 **By and for its Fourth Cause of Action**, plaintiffs re-allege each and every
24 allegation in paragraphs I through X, and further claim:

XI.

That defendants conduct constituted an unlawful imprisonment and/or false arrest.

By and for its Fifth Cause of Action, plaintiffs re-allege each and every allegation in paragraphs I through XI, and further claim:

XII.

That to the best of plaintiff's information and belief, that conduct violated Article 1, §7 of the Washington State Constitution.

XIII.

The plaintiffs have timely filed claims against the City of Kennewick and Benton County, Washington, proof of which is attached and incorporated herein as *Exhibits A and B*.

CLAIMS PURSUANT TO 42 U.S.C. § 1983 and § 1988

XIV.

At all material times hereto, defendants were acting under color of state law.

XV.

At all material times herein, plaintiffs had constitutionally protected liberty interests in life, personal security, bodily integrity, being free from harmful physical contact or emotional injury, freedom to travel, and had constitutionally protected rights to equal protection, as well as procedural and substantive due process of law.

XVI.

The acts and/or omissions of the Defendants City of Kennewick and Benton County, Washington, by and through their agents and representatives identified above constitute a pervasive pattern of recklessness, deliberate indifference, gross negligence and/or wanton/willful misconduct in regard to the rights of plaintiffs.

XVII.

The individual defendants named above in their individual capacities, acted in a manner that deprived plaintiffs of constitutionally protected liberty interests in life, personal security, bodily integrity, travel and deprived plaintiffs of equal protection and procedural and substantive due process of law. Said individual defendants further acted in a manner that was deliberately indifferent, wanton and willful and which reflected a reckless disregard for plaintiffs' well being.

XIII.

Plaintiffs were injured by the unconstitutional policies, customs and procedures implemented and followed by the City of Kennewick Police Department and the Benton County Sheriff's Office, which were done in violation of their civil rights and the City of Kennewick and Benton County are liable therefore under 42 U.S.C. § 1983 and § 1988.

XIX.

Plaintiffs are entitled to an award of damages against the municipal and county defendants and individual defendants for their injuries and damages, including all general and special damages and including punitive damages under federal common law and 42 U.S.C. § 1983. Further, plaintiffs are entitled to an

1 award against the individual defendants for their costs and reasonable attorney's fees
2 pursuant to 42 U.S.C. § 1988.
3

4 **LIMITED PHYSICIAN/PATIENT WAIVER**

5 **XX.**

6 Plaintiff hereby waives the physician-patient privilege ONLY to the extent
7 required by RCW 5.60.060, as limited by the plaintiff's constitutional rights of
8 privacy, contractual rights of privacy, and the ethical obligation of physicians and
9 attorneys not to engage in *ex parte* contact between a treating physician and the
10 patient's legal adversaries.
11

12 **DAMAGES**

13 **XXI.**

14 As a direct and proximate result of the negligence and other improper conduct
15 of the City of Kennewick Police Department and Benton County Sheriff's Office as
16 aforesaid, Kenneth Rogers experienced excruciating pain and suffering, fear of death
17 and mental anguish and other emotional, physical and mental pain and suffering.
18 Kenneth and Mary Lou Rogers sustained economic loss and general and special
19 damages in amounts to be proven at the time of trial.
20

21 **PRAYER**

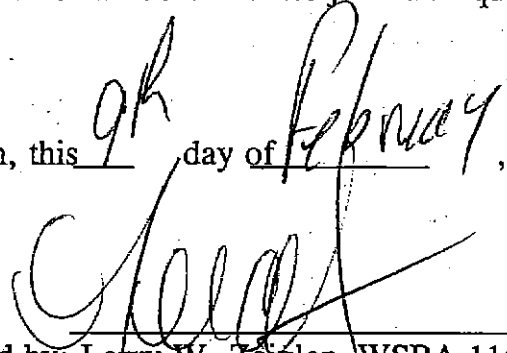
22 WHEREFORE, plaintiffs pray for judgment against defendants, and each of
23 them, as follows:
24

1 1. For all such general and special damages allowable under Washington
2 law and as shall be established at the time of the trial herein;

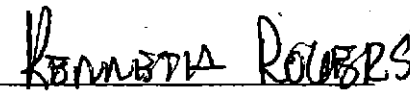
3 2. For damages pursuant to 42 U.S.C. § 1983 and § 1988, including an
4 award of punitive damages, costs and attorney's fees;

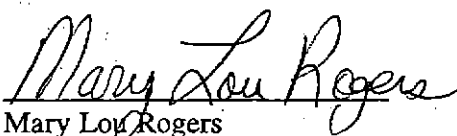
5 3. For such other and further relief as the Court deems just and equitable
6 under the circumstances of this case.

7
8 DATED at Kennewick, Washington, this 9th day of February, 2004.

9
10
11 
12 Presented by: Larry W. Zeigler, WSBA 11595
13 Attorney for Plaintiffs

14 Kenneth and Mary Lou Rogers, under the laws of the State of Washington and penalty of
15 perjury, declare that they have reviewed the contents of the Complaint herein, and to the best of
16 their information and belief consider the same to be true and accurate.

17 
18 Kenneth Rogers

19 
20 Mary Lou Rogers

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF BENTON

ROGERS,

NO.#

vs

RETURN OF SERVICE

CITY OF KENNEWICK,

State of Washington
County of Franklin

The undersigned being first duly sworn on oath deposes and says that I am a resident of the State of Washington, over the age of 18 years, not a party to or interest in this action.

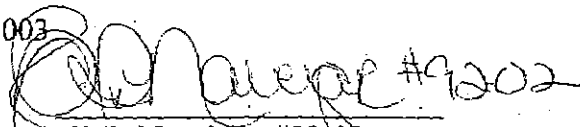
On August 15th, 2003 @ 3:55 p.m. At 210 W. 6th Ave, Kennewick, Washington. Benton County, I served The City of Kennewick, with the following documents:

"ORIGINAL CLAIM FORM; COPY OF MR. ROGER'S STATEMENT,"

By then and there personally delivering a true and correct copy thereof to and leaving the same with VALERIE - Kennewick City Clerk.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Pasco, Washington, on September 23, 2003


D.P. Navejar #92-02
Franklin County Process Server

Fee: \$25.00

Inter-City Legal Processing & Messenger Service -518 W. Shoshone St. Pasco, WA. 99301

— EX. 4 —

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF FRANKLIN

ROGERS,

No. #

v.

CITY OF KENNEWICK and
BENTON COUNTY,

RETURN OF SERVICE

State of Washington
County of Franklin

The undersigned being first duly sworn on oath deposes and says that I am a resident of the State of Washington, over the age of 18 years, not a party to or interest in this action.

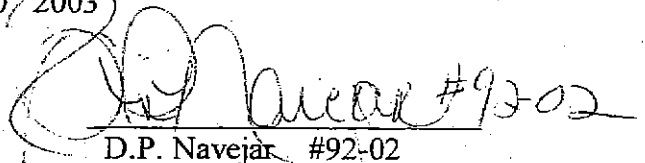
On September 7th 2003 @ 3:30 p.m. At 16714 So. 1585 PR SW, Prosser, Washington. Benton County, I served Max Benitz, Jr. County Commissioner, with the following documents:

"ORIGINAL CLAIM FORM; COPY OF MR. ROGERS' STATEMENT,"

By then and there personally delivering a true and correct copy thereof to and leaving the same with Max Benitz Jr. County Commissioner.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Pasco, Washington, on September 30th 2003

 #92-02

D.P. Navejar #92-02

Franklin County Process Server

Fee: \$46.00

Inter-City Legal Processing & Messenger Service —518 W. Shoshone St. Pasco, WA. 99301


— F X R —

RECEIVED

FEB 11 2004

FILED
FRANKLIN CO CLERK

2004 FEB -9 A 8:4

MICHAEL J. KILLIAN

BY DEPUTY

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR BENTON AND FRANKLIN COUNTIES

KENNETH ROGERS ET UX	Plaintiff(s))	Case No. 04 2 50094 2
)	
V.)	CIVIL CASE SCHEDULE ORDER
)	(ORSCS)
)	
<u>CITY OF KENNEWICK ET AL</u>	Defendant(s))	

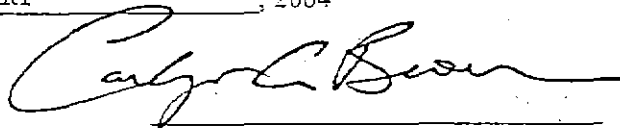
I. SCHEDULE

(Cases filed the week of 02/09/04)

	DUE DATE
1. Confirmation of Service	03/15/04
2. Confirmation / Waiver of Status Conference	05/10/04
3. Last Date for Filing: Motions to Change Trial Date; Jury Demand	06/14/04
4. Status Conference (if needed)	06/14/04
5. Plaintiff's Disclosure of Lay and Expert Witnesses	07/12/04
6. Defendant's Disclosure of Lay and Expert Witnesses	09/13/04
7. Disclosure of Plaintiff's Rebuttal Witnesses	10/11/04
8. Disclosure of Defendant's Rebuttal Witnesses	11/15/04
9. Last Date for Filing Statement of Arbitrability	11/29/04
10. Settlement Position Statements filed by all parties	11/29/04
11. Discovery Cutoff (60 days prior to trial)	12/13/04
12. Settlement / Pretrial Conference	12/13/04
13. Last Date for Hearing Dispositive Pretrial Motions	12/27/04
14. Last Date for Filing and Serving Trial Management Report	01/10/05
15. Pretrial Conference	01/10/05
16. Trial Memoranda, Motions In Limine, Jury Instructions	01/31/05
17. Trial Date	02/16/05

II. ORDER

IT IS ORDERED that all parties comply with the foregoing schedule.

DATED this 9TH day of FEBRUARY, 2004


Judge

NOTICE TO PLAINTIFF:

The plaintiff may serve a copy of the Case Schedule Order on the defendant(s) along with the summons and complaint. Otherwise, the plaintiff shall serve the Case Schedule Order on the defendant(s) within ten (10) days after the later of: (1) the filing of the summons and complaint or (2) service of the defendant's first response to the complaint, whether that response is a Notice of Appearance, an Answer, or a CR 12 Motion.

RECEIVED

FEB 17 2004

BEN. CO. PROS.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF FRANKLIN

KENNETH & MARY LOU ROGERS,
husband & wife, individually and as a
marital community,

Plaintiffs,

v.

CITY OF KENNEWICK, a municipal
corporation; BENTON COUNTY,
WASHINGTON, a political sub-division in
the State of Washington; RICHARD
DOPKE & JANE DOE DOPKE, husband
and wife, individually and as a marital
community; JOHN DOE BONNALIE &
JANE DOE BONNALIE, husband and
wife, individually and as a marital
community; R.B. KOHN & JANE DOE
KOHNS, husband and wife, individually and
as a marital community; DEPUTY JOHN
DOE QUACKENBUSH & JANE DOE
QUACKENBUSH, husband and wife,
individually and as a marital community,

Defendants.

NO. 04-2-50094-2

NOTICE OF
ASSOCIATION OF
COUNSEL

TO: THE CLERK OF THE ABOVE-ENTITLED COURT; and
ALL PARTIES AND COUNSEL OF RECORD

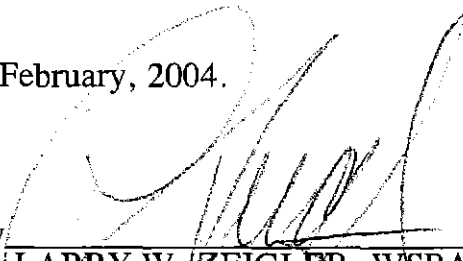
NOTICE OF ASSOCIATION OF COUNSEL - 1

RETTIG, OSBORNE, FORGETTE
O'DONNELL, ILLER & ADAMSON, LLP
6725 W. CLEARWATER AVENUE
KENNEWICK, WASHINGTON 99336
TELEPHONE (509) 783-6154

1 PLEASE TAKE NOTICE that Diehl R. Rettig are hereby associated with
2 Larry W. Zeigler as attorneys for the plaintiffs herein.

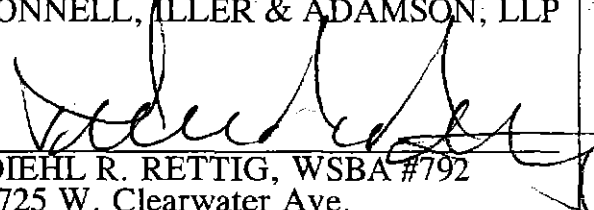
3 It is hereby requested that all future papers and pleading, exclusive of
4 original process, be served upon the undersigned attorneys at the addresses below
5 stated.

6 DATED this 12th day of February, 2004.

7
8
9 By 
10 LARRY W. ZEIGLER, WSBA# 11595
11 2839 W. Clearwater, #341
12 Kennewick, WA 99336-2927
13 (509) 734-1229
14 Attorneys for plaintiff

15 Associating Counsel:

16 RETTIG, OSBORNE, FORGETTE,
17 O'DONNELL, ILLER & ADAMSON, LLP

18 By 
19 DIEHL R. RETTIG, WSBA #792
20 6725 W. Clearwater Ave.
21 Kennewick, WA 99336
22 (509) 783-6154
23 Attorneys for plaintiffs

24
25
26
27 NOTICE OF ASSOCIATION OF COUNSEL - 2

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RETTIG, OSBORNE, FORGETTE
O'DONNELL, ILLER & ADAMSON, LLP
6725 W. CLEARWATER AVENUE
KENNEWICK, WASHINGTON 99336
TELEPHONE (509) 783-6154

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF FRANKLIN

KENNETH & MARY LOU ROGERS,
husband & wife, individually
and as a marital community,

Plaintiffs,

vs.

CITY OF KENNEWICK, a municipal
corporation; et al.,

Defendants.

NO. 04-2-50094-2

NOTICE OF APPEARANCE

COPY

TO: Clerk of the Court for Franklin County Superior Court;

AND TO: Larry Zeigler, Attorney for Plaintiff
2839 W. Clearwater, #341
Kennewick, WA 99336

Diehl R. Rettig
RETTIG, OSBORNE, FORGETTE, O'DONNELL, ILLER & ADAMSON
Attorneys for Plaintiff
6725 W. Clearwater Ave.
Kennewick, WA 99336

PLEASE TAKE NOTICE that Andy Miller, Benton County Prosecuting
Attorney, and Rea L. Culwell, Deputy Prosecuting Attorney, without

NOTICE OF APPEARANCE - 1

BENTON COUNTY PROSECUTING ATTORNEY
7122 West Okanogan Place, #G, Kennewick, WA 99336
(509) 735-3591

1 waiving objections to improper service, subject matter or personal
2 jurisdiction, venue, timely appeal, failure to state a claim upon
3 which relief may be granted, or failure to join a party under Rule
4 19, hereby appear in the above entitled cause on behalf of
5 Defendants Benton County, Washington, Deputy John Doe Quackenbush,
6 and Jane Doe Quackenbush, and request that all further papers and
7 pleadings herein, except original process, be served upon the
8 undersigned attorneys at the address stated below.
9

10 Dated this 23 day of February, 2004.

11 ANDY MILLER
12 Prosecuting Attorney

13 By RLC
14 REA L. CULWELL, Deputy
15 Prosecuting Attorney
16 Attorneys for Defendants
17 Benton County and Quackenbush
18 WSBA #32080
19 OFC ID 91004
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF FRANKLIN

KENNETH & MARY LOU ROGERS,
husband & wife, individually
and as a marital community,

Plaintiffs,

vs.

CITY OF KENNEWICK, a municipal
corporation; et al.,

Defendants.

NO. 04-2-50094-2

CERTIFICATE OF SERVICE

I, MELANIE J. SMITH, declare as follows:

That I am over the age of 18 years, not a party to this
action, and competent to be a witness herein. That I, as a
paralegal in the office of the Benton County Prosecuting Attorney,
deposited a true and correct copy of the Notice of Appearance on
behalf of defendants Benton County and Quackenbush on the 24th day
of February, 2004, for delivery by Inter-City Messenger Service to:

Larry Zeigler, Attorney for Plaintiff
2839 W. Clearwater, #341
Kennewick, WA 99336

BENTON COUNTY PROSECUTING ATTORNEY

7122 West Okanogan Place, #G, Kennewick, WA 99336

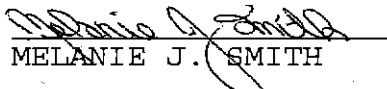
(509) 735-3591

1 Diehl R. Rettig
2 RETTIG, OSBORNE, FORGETTE, O'DONNELL, ILLER & ADAMSON
3 Attorneys for Plaintiff
4 6725 W. Clearwater Ave.
5 Kennewick, WA 99336

6 John Ziobro
7 Kennewick City Attorney
8 210 W. Sixth Ave.
9 Kennewick, WA 99336

10 I certify under penalty of perjury under the laws of the State
11 of Washington that the foregoing is true and correct.

12 EXECUTED at Kennewick, Washington, this 24th day of February,
13 2004.

14 
15 MELANIE J. SMITH

16 BENTON COUNTY PROSECUTING ATTORNEY

17 7122 West Okanogan Place, #G, Kennewick, WA 99336

18 (509) 735-3591

19 CERTIFICATE OF SERVICE - 2

COPY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF FRANKLIN

KEN AND MARY LOU ROGERS

Plaintiffs,

vs.

CITY OF KENNEWICK, a municipal
corporation; BENTON COUNTY,
WASHINGTON, a political
subdivision in the State of
Washington; Richard Dopke &
Jane Doe Dopke, husband &
wife, individually and as a
marital community; John Doe
Bonnalie & Jane Doe Bonnalie,
husband & wife, individually,
and as a marital community;
R.B. Kohn & Jane Doe Kohn,
husband & wife, individually,
and as a marital community;
Deputy John Doe Quackenbush &
Jane Doe Quackenbush, husband
& wife, individually, and as a
marital community;

Defendants.

NO. 04-2-40095-2

NOTICE OF FILING, NOTICE
OF REMOVAL TO FEDERAL
COURT

TO: Clerk of the Court for Franklin County Superior Court;

TO: Plaintiffs Ken and Mary Lou Rogers
Attorney Larry W. Zeigler
2839 W. Clearwater Ave.
Suite 341
Kennewick, WA 99336-2927

BENTON COUNTY PROSECUTING ATTORNEY
7122 West Okanogan Place, #G
Kennewick, Washington 99336
(509) 735-3591

NOTICE OF FILING, NOTICE
OF REMOVAL TO FEDERAL COURT - 1

1 City of Kennewick
2 John Ziobro
3 City Attorney
4 210 West Sixth Avenue
5 PO Box 6108
6 Kennewick, WA 99336-0108

7 Richard Dopke and Jane Doe Dopke
8 John Ziobro
9 City Attorney 210 West Sixth Avenue
10 PO Box 6108
11 Kennewick, WA 99336-0108

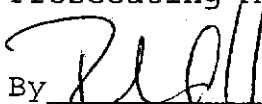
12 John Doe Bonnalie and Jane Doe Bonnalie
13 John Ziobro
14 City Attorney
15 210 West Sixth Avenue
16 PO Box 6108
17 Kennewick, WA 99336-0108

18 R.B. Kohn and Jane Doe Kohn
19 John Ziobro
20 City Attorney
21 210 West Sixth Avenue
22 Kennewick, WA 99336-0108

23 Please take notice that on February 25, 2004, Defendants
24 Benton County, Benton County Deputy Sheriff Jeff Quackenbush and
25 Jane Doe Quackenbush filed a Notice of Removal to Federal Court in
26 the United States District Court for the Eastern District of
27 Washington. A correct copy of the original Notice is attached
28 hereto as Attachment A.

DATED this 3rd day of March, 2004.

ANDY MILLER
Prosecuting Attorney

By 
REA L. CULWELL, Deputy
Prosecuting Attorney
WSBA# 32080
Attorneys for Defendants
OFC ID 91004

BENTON COUNTY PROSECUTING ATTORNEY

7122 West Okanogan Place, #G

Kennewick, Washington 99336

(509) 735-3591

CERTIFICATE OF SERVICE

I, Shannon C. Slaght, declare as follows:

That I am over the age of 18 years, not a party to this action, and competent to be a witness herein. That I, as a legal secretary in the office of the Benton County Prosecuting Attorney deposited a true and correct copy of this document in an envelope, and that I addressed said envelope as set forth herein and on the 3rd day of March, 2004 deposited said envelope(s) so addressed with sufficient postage prepaid thereon, in the United States Mail at Kennewick, Benton County, Washington to:

Plaintiffs Ken and Mary Lou Rogers
Attorney Larry W. Zeigler
2839 W. Clearwater Ave.
Suite 341
Kennewick, WA 99336-2927

City of Kennewick
John Ziobro
City Attorney
210 West Sixth Avenue
PO Box 6108
Kennewick, WA 99336-0108

Richard Dopke and Jane Doe Dopke
John Ziobro
City Attorney 210 West Sixth Avenue
PO Box 6108
Kennewick, WA 99336-0108

John Doe Bonnalie and Jane Doe Bonnalie
John Ziobro
City Attorney
210 West Sixth Avenue
PO Box 6108
Kennewick, WA 99336-0108

R.B. Kohn and Jane Doe Kohn
John Ziobro
City Attorney
210 West Sixth Avenue
Kennewick, WA 99336-0108

I certify under penalty of perjury under the laws of the State

BENTON COUNTY PROSECUTING ATTORNEY

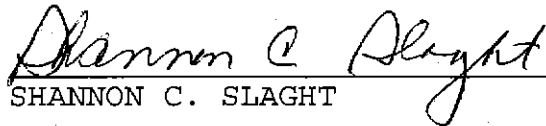
7122 West Okanogan Place, #G

Kennewick, Washington 99336

(509) 735-3591

1 of Washington that the foregoing is true and correct.

2 EXECUTED at Kennewick, Washington, this 3rd day of March,
3 2004.

4 
5 SHANNON C. SLAGHT
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